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AZERBAIJAN'S NOVEMBER 1995 PARLIAMENTARY ELECTION

Baku, Lenkoran, Lerik

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A Report Prepared by the Staff of the
Commission on Security and Cooperation in Europe

ABOUT THE ORGANIZATION (OSCE)

The Conference on Security and Cooperation in Europe, also known as the Helsinki process, traces its origin to the signing of the Helsinki Final Act in Finland on August 1, 1975, by the leaders of 33 European countries, the United States and Canada. Since then, its membership has expanded to 55, reflecting the breakup of the Soviet Union, Czechoslovakia, and Yugoslavia. (The Federal Republic of Yugoslavia, Serbia and Montenegro, has been suspended since 1992, leaving the number of countries fully participating at 54.) As of January 1, 1995, the formal name of the Helsinki process was changed to the Organization for Security and Cooperation in Europe (OSCE).

The OSCE is engaged in standard setting in fields including military security, economic and environmental cooperation, and human rights and humanitarian concerns. In addition, it undertakes a variety of preventive diplomacy initiatives designed to prevent, manage and resolve conflict within and among the participating States.

The OSCE has its main office in Vienna, Austria, where weekly meetings of permanent representatives are held. In addition, specialized seminars and meetings are convened in various locations and periodic consultations among Senior Officials, Ministers and Heads of State or Government are held.

ABOUT THE COMMISSION (CSCE)

The Commission on Security and Cooperation in Europe (CSCE), also known as the Helsinki Commission, is a U.S. Government agency created in 1976 to monitor and encourage compliance with the agreements of the OSCE.

The Commission consists of nine members from the U.S. House of Representatives, nine members from the U.S. Senate, and one member each from the Departments of State, Defense and Commerce. The positions of Chair and Co-Chair are shared by the House and Senate and rotate every two years, when a new Congress convenes. A professional staff assists the Commissioners in their work.

To fulfill its mandate, the Commission gathers and disseminates information on Helsinki-related topics both to the U.S. Congress and the public by convening hearings, issuing reports reflecting the views of the Commission and/or its staff, and providing information about the activities of the Helsinki process and events in OSCE participating States.

At the same time, the Commission contributes its views to the general formulation of U.S. policy on the OSCE and takes part in its execution, including through Member and staff participation on U.S. Delegations to OSCE meetings as well as on certain OSCE bodies. Members of the Commission have regular contact with parliamentarians, government officials, representatives of non-governmental organizations, and private individuals from OSCE participating States.

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At the request of the Government of Azerbaijan, the Warsaw-based Office of Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) and the Electoral Assistance Division of the United Nations jointly established an operation to observe Azerbaijan's November 1995 parliamentary election. In addition to interacting with Azerbaijan's Central Election Commission and Supreme Court, political parties, individual candidates, and the media , the Mission met regularly with Azerbaijan's political leadership—including President Haidar Aliev and Parliament Speaker Rasul Guliev—and with the international diplomatic community in Baku to discuss various aspects of the election campaign. The Joint Electoral Observation Mission also deployed over 120 international observers during the November 12 balloting, and fielded 26 observers for the run-off elections in 20 districts on November 26.

The author of this report, Helsinki Commission Staff Advisor Michael Ochs, was the Co-Coordinator of the OSCE/UN Joint Electoral Observation Mission in Azerbaijan from September 15 to December 1, 1995, representing the ODIHR. The final public statement issued by the OSCE/UN Mission about Azerbaijan's parliamentary election is reproduced here as an appendix. Apart from this statement, which represented, and was cleared by, the OSCE and the UN, neither organization takes responsibility for the views herein expressed.

The Helsinki Commission would like to thank Ambassador Richard Kauzlarich and the staff of the U.S. Embassy in Baku for assistance throughout the duration of the Mission. A special vote of thanks from the author goes to Dr. Mahmoud El-Said, the UN Representative/Resident Coordinator in Baku from November 1992 through November 1995.

EXECUTIVE SUMMARY

- On November 12, 1995, Azerbaijan held a constitutional referendum and its first parliamentary election since becoming independent. According to the Central Election Commission (CEC), 86 percent of the electorate took part in the referendum, and 91.9 percent voted in favor of the new constitution. The document affirms Azerbaijan's territorial integrity, asserts the right to dispose of natural resources in Azerbaijan's sector of the Caspian Sea, recognizes Nakhichevan (formerly an Autonomous Republic) as an "autonomous state" within the country, and creates a strong presidency.
- The CEC also announced that 79.5 percent of the electorate cast ballots in the parliamentary election. Azerbaijan's new legislature has 125 seats; 25 were distributed proportionally among political parties, eight of which fielded slates of candidates. Parties needed at least eight percent of the vote to win representation in parliament. New Azerbaijan, President Haidar Aliev's party, won 19 seats; two opposition parties—the Party of the Popular Front and the National Independence Party—each won three. Of the remaining 100 seats, contested by 386 candidates on a majority basis, 71 candidates were elected. In eight districts, the CEC annulled the election because of a failure to meet minimum turnout requirements or because of infractions, and scheduled repeat elections for February 1996. Run-off elections took place in 20 other districts on November 26.

Five districts failed to meet turnout requirements, and in two others, various violations invalidated the voting. In these additional seven districts—for a total of 15—there will be repeat elections in February 1996.

- Azerbaijan's election was multi-party, with many independent candidates and opposition parties actively participating. All candidates and parties received free air time on state television, which opposition parties used to criticize the government and put forward their own programs. They also sought voter support through their own newspapers. Candidates and parties could appeal decisions of the electoral authorities to the Supreme Court, which ruled on them before the November 12 vote. Moreover, the election law permitted observers and authorized representatives of political parties and candidates to monitor the voting and vote count.
- Nevertheless, the OSCE/UN Joint Electoral Observation Mission concluded that the election did not correspond to internationally accepted norms. While there were undoubtedly improprieties committed by candidates and parties, electoral authorities excluded about 60 percent of candidates and one-third of the political parties on the basis of a methodology open to question (visual examination of signature lists), which fostered suspicions of manipulation. Serious irregularities characterized the voting and vote count, and there is good reason to suspect that election officials inflated the results to meet minimum turnout requirements.
- President Aliev, who had stressed his personal commitment to free and fair elections, acknowledged that observers' criticisms were justified. But he maintained that the elections, though flawed, were "a step forward." Aliev has also pledged to continue Azerbaijan's democratization, and to carry out the provisions of the constitution guaranteeing human and civil rights. The new constitution and the election have strengthened Aliev, certifying his preeminence and assuring him of a supportive legislature. He has secured the status of New Azerbaijan, which he heads, as the ruling party. But he now bears full responsibility for Azerbaijan, as he cannot blame policy failures or unfulfilled expectations on an uncooperative parliament.
- The election did nothing to improve already poor relations between the government and the two most oppositionist parties—the Party of the Popular Front, and *Musavat*, which was excluded from fielding a party list. Essentially marginalized in the political process, both parties reject the legitimacy of the new parliament, and have called for new elections.
- Prospects for a deal on Nagorno-Karabakh seem better, with Aliev assured of a pliant parliament. Armenian President Ter-Petrossyan can also count on legislative backing, and both presidents want the dispute behind them. But the OSCE talks have left key issues unsettled, including the territory's status: Nagorno-Karabakh demands independence, whereas Azerbaijan insists on territorial integrity. Moreover, the recently announced Russian diplomatic initiative threatens, yet again, to undermine the Minsk Group. With so many refugees and some 20 percent of its territory under occupation, Azerbaijan needs to alter the status quo more than do Armenia and Nagorno-Karabakh. If diplomacy seems to offer no hope of regaining the territories, military options may become more attractive. But both government and opposition representatives largely discount this possibility, pointing to the level of Azerbaijan's military capabilities. Breaking the current ceasefire is also risky: a failed offensive would be very damaging to President Aliev.
- A supportive legislature helps President Aliev continue resisting Moscow's pressure for military bases and joint border controls. Russia's Foreign Ministry also contests Azerbaijan's sale of its oil, demanding joint decision-making about the Caspian Sea's resources. Azerbaijan has nonethe-

less signed a $7.5 billion contract with an international consortium that includes Russia's Lukoil. Russia's Prime Minister has blessed the deal, accentuating differences among various Moscow bureaucracies over Azerbaijan policy. An October 1995 agreement calls for two oil pipelines (one north through Russia, another west through Georgia) for Azerbaijan's "early oil," but Moscow will continue to push the northern route for both Azerbaijan's "early" and "late" oil.

- The election took place against the backdrop of economic decline and deteriorating living standards. Though few economic reforms have been implemented, inflation reportedly has been stabilized, parliament has already passed a law on privatization, and the government has promised more economic reforms. Whether Baku can alleviate the inevitable pain they would inflict depends on how soon oil money from the "contract of the century" starts flowing in, and how much of it is spent on social needs.
- The involvement of U.S. companies in the consortium developing Azerbaijan's oil has accentuated the economic and geo-strategic importance of good relations between Washington and Baku. Congress has also eased the sanctions imposed in 1992 on U.S. government-to-government aid to Azerbaijan. The Clinton Administration is apparently trying to treat Azerbaijan and Armenia as equally as possible, given domestic U.S. political considerations, especially in a presidential election year.

POLITICAL CONTEXT

After a brief interval of independence between 1918-1920, followed by 70 years of incorporation into the USSR, Azerbaijan declared independence in August 1991. None of the governments which subsequently were in power held parliamentary elections or adopted a new constitution. The November 12, 1995, parliamentary election and constitutional referendum thus represented an attempt to create a permanent legislative body within the framework of a new fundamental law that corresponds to Azerbaijan's status as an independent state.

The election took place against a political background that, even by post-Soviet standards, has been unusually unstable, characterized by ethnic-territorial conflict, extra-constitutional changes of government and frequent coup attempts. Consequently, the election sought to create stable structures of government that would enjoy domestic respect and legitimacy, and, perhaps, to create a parliamentary forum for political competition with clear rules of the game. By inviting the OSCE and the UN to observe the election, Azerbaijan's government also sought international recognition of its progress towards democracy.

BACKGROUND

Underlying Azerbaijan's upheavals is a mutually reinforcing confluence of conflicts that include a territorial dispute over Nagorno-Karabakh and internal power struggles among political groups that often reflect regional competition. Moreover, Azerbaijan has undergone a severe economic decline, and has made relatively little progress in institutionalizing democracy since regaining independence. At the same time, Azerbaijan's natural wealth and strategic location on the Caspian Sea have attracted the interest of distant powers, multinational oil companies, and of neighboring countries concerned about the implications of Azerbaijan's transition from a Soviet republic to a sovereign state in control of its own resources and foreign policy.

Nagorno-Karabakh. Since 1988, Azerbaijan has been locked in a dispute over Nagorno-Karabakh, a region within Azerbaijan, whose Armenian inhabitants claimed the right of self-determination. Azerbaijan, appealing to principles of territorial integrity and respect for existing borders, rejected these claims. The ensuing armed conflict has cost thousands of lives, brought about massive population transfers between Armenia and Azerbaijan, and created staggering refugee problems. Azerbaijan alone has about one million refugees and internally displaced persons, in a population numbering almost 7.5 million.[1] In Spring 1993, Armenian forces took control of Nagorno-Karabakh, expelled the remaining Azeri population, and then occupied surrounding areas, amounting, in all, to some 20 percent of Azerbaijan's territory. Since May 1994, a cease fire has been in effect, and diplomatic negotiations under the CSCE/OSCE have been underway to prepare a peace conference. As of November 1995, though the disputants had made progress on an overall political agreement, their positions on key issues remained far apart. Consequently, the November 12 election and referendum took place against the background of an ongoing conflict that threatens Azerbaijan's territorial integrity and remained unresolved, despite the virtual cessation of armed hostilities.

Domestic Instability. In the late 1980s, Mikhail Gorbachev's perestroika and the Nagorno-Karabakh conflict galvanized Azerbaijan's populace and fostered the growth of the Popular Front, which put forward a nationalist, democratic, anti-communist program. Azerbaijan's last parliamentary election, held under Communist Party rule in 1990, produced a 360-member legislature, with 25 representatives of the Democratic Bloc, which included the Popular Front . After Azerbaijan declared independence, President Ayaz Mutalibov found himself under severe pressure from the Popular Front. In late 1991, he agreed to the formation of a 50-member National Assembly, the *Milli Mejlis*, half of whose members represented the opposition.

The compromise proved unstable, however, and power struggles continued as the Nagorno-Karabakh hostilities intensified.[2] Military defeats directly contributed to Mutalibov's 1992 downfall, aided and abetted by Popular Front-organized street demonstrations. After a brief interregnum, the Popular Front came to power when its chairman, Abulfez Elchibey, won a presidential election in June 1992. But he, too, fell victim to military setbacks and fled Baku in the face of a rebellion by a warlord (Surat Husseinov) in June 1993. His departure opened the door for the current President, Haidar Aliev. Nevertheless, both Ayaz Mutalibov and Abulfez Elchibey contend that they remain the legitimate president, giving Azerbaijan three claimants for the post (a situation which has no analogue in any other former Soviet republic).

Aliev, a former KGB General, had been the Communist Party leader of Azerbaijan from 1969 to 1982, when he left for Moscow to join the Soviet Communist Party Politburo. Removed in 1987 by Mikhail Gorbachev, he came back to Azerbaijan and settled in his home region of Nakhichevan, where he became chairman of the local legislature. In June 1993, Aliev returned to power after the Popular Front government fell, and he won a presidential election in October 1993. Since then, he has reestablished his hold on the levers of power and on the political process generally, while natives of Nakhichevan have come to power and prominence in positions of central administration, and generally throughout the country.

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[1] The United Nations High Commission for Refugees (UNHCR) provides the following breakdown: about 230,000 Azerbaijani refugees from Armenia, about 650,000 Azerbaijani internally displaced persons from the occupied territories inside Azerbaijan, and some 60,000 Meskhetian Turks from Uzbekistan and Georgia.

[2] Apart from Nagorno-Karabakh's Armenians, other peoples in multi-national Azerbaijan have pursued, to varying degrees, self-determination. These include the Lezgyns in the north, across from the Russian border, and the Talysh in the south, across from Iran. In summer 1993, Alikram Gumbat declared the establishment of the Lenkoran-based "Talysh-Mugan Republic," before being forced to flee Azerbaijan. He has since returned, and been arrested.

This series of extra-legal changes of government since 1992 has generated competing claims of legitimacy. They have also influenced the pattern of domestic politics, since every change of power has featured repression of defeated political opponents by the newly victorious elite. In addition, the motif of coups and coup attempts—and the attendant government justification of strict societal controls, including states of emergency—has continued under Haidar Aliev. He put down an attempted coup by Surat Husseinov (then prime minister) in October 1994. In March 1995, a deputy minister of internal affairs was accused of preparing a coup, and he was killed along with 48 others in a shootout with government forces. In August, September and November 1995, government sources announced the discovery of new attempts to assassinate Aliev. Accordingly, the leitmotif of contemporary Azerbaijani politics is the search for stability, which President Aliev, known for his long years of experience and strong hand, has pledged to provide.

Economy. The economic backdrop to the election and referendum hampered efforts to involve the population in the electoral process. Slow economic reforms and the need to care for so many refugees have exacerbated the effects of economic dislocation caused by a general decline in production, inflation, disrupted trading contacts with other CIS states, and the Russian blockade of Azerbaijan imposed in connection with the war in Chechnya. As a result, after years of conflict and economic hardship, the electorate—to judge by many conversations with local residents and the international diplomatic community—was quite disillusioned, skeptical about the prospects of positive change through the political process, and inclined to apathy.

Institutionalizing Democracy. Azerbaijan shares the general tendency in the former Soviet republics towards strong executive power. The country's preoccupation with the Nagorno-Karabakh conflict, internal instability, and refugees has left little time for state-building and consolidating the institutions of democratic societies. Consequently, though often proclaimed, the division of power among the branches of government has been hardly developed in practice. A graphic illustration is the provision of the election law which permitted 15 percent of the 125 deputies—i.e., 19 seats—to retain their jobs, including government posts, while running for parliament. Some of these officials were also charged with overseeing the election's fairness. In short, the election law, and the administrative and judicial bodies responsible for implementing it, were under the strong influence of the executive authorities.

Neighboring States. Various former officials leaders charged with anti-government conspiracies—notably, President Ayaz Mutalibov, Defense Minister Rahim Gaziev and Prime Minister Surat Husseinov—are now in Russia.[3] Their occasional attacks on Aliev in the Russian media and calls for Russian-Azerbaijani cooperation reflect Moscow's continuing interest in oil-rich Azerbaijan, which borders Turkey and Iran. Hoping to limit the influence of other states, Moscow has been pressing Azerbaijan, which joined the CIS after Aliev's return to power, to accept Russian military bases and joint border controls. Azerbaijan, the only former Soviet republic (outside the Baltic States) with no Russian troops on its territory, has resisted.

[3] To quote the Russian newspaper *Nezavisimaya Gazeta (*October 28, 1995): "Apart from Mahir Javadov [brother of the deputy foreign minister killed in Baku in March 1995], Igor Giorgadze—accused of plotting against [Eduard] Shevardnadze—and other 'former trump cards' live [in Russia]. Someone is providing them with asylum from justice in the dachas near Moscow, 'just in case.'"

[4] The Consortium's full name is the Azerbaijan International Operating Company (AIOC).

Russia's Foreign Ministry also contests Azerbaijan's right to sell its oil, arguing that decisions on the Caspian Sea's resources must be made jointly by all littoral states. Azerbaijan has staunchly defended the right to develop its resources as it pleases, and in September 1994, signed the "contract of the century" for $7.5 billion with a consortium of international oil companies.[4] On October 9, 1995, the Consortium announced plans for two oil pipelines—one north through Russia, another west through Georgia—for Azerbaijan's "early oil."

Iran has backed Moscow on the Caspian Sea controversy. The prospect of an independent and wealthy Azerbaijan stimulating nationalism, and possibly even territorial separatism, among an estimated 20 million Azeris in Iran presumably helps explain Teheran's alliance with Moscow. Iran's exclusion, at US Government insistence, from the Consortium of companies involved in Azerbaijan's oil deal is another relevant factor in Teheran's calculations. Iran has also annoyed Baku by pursuing economic cooperation with Armenia.

Turkey, ethnically and linguistically close to Azerbaijan, has backed Baku in the Nagorno-Karabakh conflict, and relations were particularly close when the pro-Turkish Popular Front was in power. After the March 1995 coup attempt, however, Ankara's ambassador left Azerbaijan, fueling suspicion of Turkey's involvement. Since then, Turkey has steadfastly maintained its support for Haidar Aliev, while actively pursuing economic interests in Azerbaijan.

Considering Azerbaijan's complicated relations with its neighbors, the November 12 election and referendum offered the government a chance to show a united face to the outside world. Popular support for the constitution, the political process generally, and in particular for New Azerbaijan, President Aliev's party, would seem to strengthen the bond between state and society, thereby, perhaps, deterring attempts at outside interference.

PRE-ELECTION ATMOSPHERE

President Aliev repeatedly stressed his personal commitment to holding free and fair elections as an integral aspect of transforming Azerbaijan into a democratic, pluralistic society. Efforts to hold free and fair elections, however, took place in a complicated context of mutual distrust between the government and opposition parties.

Given the circumstances of Haidar Aliev's 1993 return to power, the Popular Front and *Musavat* acknowledge him only as the *de facto* leader of the country, and maintain that Abulfez Elchibey is still the legitimate president. Aliev, echoed by various government ministers, has accused the PFA of being a terrorist organization that has tried to overthrow or assassinate him. Various PFA leaders have been arrested, PFA headquarters in Baku and elsewhere remain closed, and the PFA alleges consistent police harassment. It was not certain, therefore, until shortly before the election process began that the PFA would be allowed to participate. Ultimately, the PFA was able to hold a congress in August, at which it changed its status from a movement to a party (PPFA), in order to comply with election law requirements, and was registered on September 1.

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[5] Actually, the Communist Party was initially not re-registered, but subsequently won an appeal to the Supreme Court on September 18.

Government relations with *Musavat* had not been equally strained. The party, for example, retains its headquarters in Baku. However, the leader of *Musavat*, Isa Gambar, the chairman of parliament during the Popular Front's tenure, is still technically barred from leaving Baku and faces possible criminal indictment for deaths caused during Surat Husseinov's June 1993 rebellion.

Etibar Mamedov's Party of National Independence is more moderate than the PPFA and *Musavat* and, though publicly critical of the government, enjoys much better relations with the authorities. Despite occasional threats to boycott, the party's participation in the election was never in any real doubt.

Arrests of Opposition Politicians: Various members of the PPFA and *Musavat* who were candidates on their party lists have been jailed. The authorities accuse them of criminal activity, whereas *Musavat*, the PPFA and other opposition parties consider the arrests government intimidation and repression.

On September 19, the authorities arrested former parliamentary deputy Tofik Gasimov, foreign minister under the Elchibey government, one day after *Musavat* named him number two on its party slate. He was charged with treason and attempting to overthrow the government in March 1995. Popular Front activists Faraj Guliev and Arif Pashayev (designated numbers 5 and 6 on the PPFA's party list after their arrest) are also in prison. Guliev is charged with attempting to overthrow Haidar Aliev when he chaired the legislature of Nakhichevan; Pashayev is accused of escaping from a KGB prison in 1994.

The police, on October 2, 1995, also arrested Sabutay Gadjiev, leader of the Party of Labor, which has had acknowledged links to former president Ayaz Mutalibov. Gadjiev was charged with treason and attempting to stage an armed overthrow of the government.

Censorship: Under Haidar Aliev, censorship has returned, and was strengthened after the October 1994 coup attempt. Government officials only acknowledged military censorship, pointing to the ongoing Nagorno-Karabakh conflict. However, newspapers of all political parties, the independent press and other media have been subject to political censorship, which eased substantially before the election, but was still in effect as of November 1.

In a related issue, the trial of four journalists of the satirical newspaper *Cheshme* began on October 3. They were arrested in March 1995 on charges of insulting the honor and dignity of the President. Two of the journalists were placed on the Popular Front's party list. In October, three received prison terms of 5, 3 and 2 years, and one was sentenced to police supervision. On the eve of the November 12 election, however, President Aliev amnestied the journalists.

Opposition parties and candidates frequently pointed to censorship and the above-mentioned arrests, as well as others, as evidence of the state's intention to clamp down on society, and restrict access to the political process. They claimed that the elections were taking place in an atmosphere of fear and intimidation.

ELECTION LAW

Parliament passed the electoral law on August 12, 1995. The law established a 125-seat, unicameral parliament to serve a five-year term, with 100 representatives elected on a majority basis and 25 seats distributed to political parties on a proportional basis.

The Central Election Commission (CEC) was responsible for administering the constitutional referendum and the parliamentary election. President Aliev appointed the CEC's Chairman, who selected the other members. The law required the Commission to be a neutral body and prohibited representatives of political parties from serving as members.

The CEC also oversaw District Election Commissions (DECs), and appointed their chairpersons. They were responsible for organizing the election of the district candidates and overseeing the work of the Precinct Election Commissions (PECs). Members of DECs could not be affiliated with any political party and were selected by lot. By contrast, 20 percent of the members of PECs were representatives of candidates, 30 percent were members of political parties and the remaining 50 percent were representatives of state enterprises and entities.

Candidates had to be 25 years of age or older. Whether running independently or affiliated with a political party, they needed 2,000 valid signatures from voters in their district. For district elections to be valid, 50 percent of the electorate needed to participate, and a candidate needed more than 50 percent of the valid votes to be elected. Otherwise, a run-off election between the two biggest vote-getters would take place two weeks later. If the 50 percent minimum voter participation requirement was not met, repeat elections would take place within three months of the first round.

To field a slate of candidates, parties had to be legally registered and collect 50,000 signatures from eligible voters. A 50 percent minimum voter turnout was also required nationally for the election to be considered valid; if this requirement was not met, the process would be repeated and new elections held within six months. Parties needed at least 8 percent of the vote nationally to win representation in parliament.

The election law permitted representatives of the media, candidates and political parties to observe meetings of election commissions, the polling and the vote count. In addition, candidates could designate up to 15—and political parties up to 45—authorized representatives to carry out campaign activities and also attend these proceedings.

Candidates and parties could appeal decisions of district electoral authorities to the Central Election Commission, and could appeal CEC decisions to the Supreme Court. The Court's rulings were final and binding.

In general, the law guaranteed multiple candidacies, freedom of speech and assembly, equal access to the media, the right for candidates and parties to monitor the voting and vote count, the right of voters individually and privately to cast their ballot, plus an appeal mechanism to redress grievances. However, in some important aspects, the law was unclear or silent. For example, it does not specify the procedures for validating or excluding signature lists, nor does it state how many signature lists candidates and parties were to receive. No provisions either sanction or prohibit the presence of police and executive branch officials in the polling stations. These lapses, as well as poor or inconsistent application of the law, had a fundamental impact on the electoral campaign and its fairness.

CONSTITUTION

After Azerbaijan's declaration of independence, the 1978 constitution had remained in effect, except as amended by the October 18, 1991 Act on Independence. A Constitutional Commission, chaired by President Aliev, worked on a new draft from June until November 1995. The Commission released its first draft to the public on October 15 for 15 days of national discussion.

The new constitution describes Azerbaijan as a democratic, secular, unitary republic, and affirms its territorial integrity. This would apparently exclude ceding sovereignty over Nagorno-Karabakh (which is not mentioned in the document), and also bars the introduction of a federal system. Voters must approve in a referendum any changes in the country's borders (Article 12).

Chapter Two lists a broad range of human rights and freedoms, including: the right to property and to engage in legally sanctioned enterprise, to choose one's place of residence, and the right to participate in the political process, as well as freedom of movement, freedom of thought and speech, freedom of religion, and freedom of (peaceful) assembly. The right to preserve one's national/ethnic identity is guaranteed, as is the right to use one's native language. Article 36 bans propaganda inciting racial, ethnic or religious animosity. Only a declaration of war, the imposition of a state of emergency or military mobilization can partially and temporarily abrogate these rights.

Azerbaijan's new constitution creates a strong presidency. The President appoints the prime minister and other ministers, as well as nominates the Procurator General and judges of the Constitutional Court and Supreme Court. He is commander in chief of the armed forces, appoints local executive authorities, and can call a referendum. The President can also declare a state of emergency and martial law, his veto of constitutional laws cannot be overridden, and he can issue binding orders and decrees. He can serve a maximum of two terms. Article 119 ("The honor and dignity of the President is protected by law") strengthens an existing law, which has already been used against journalists. The President also has immunity from prosecution.

If the President commits a "grave crime," the Constitutional Court can bring up his removal before Parliament, after a finding by the Supreme Court. Ninety-five of 125 members of parliament must vote to remove him; the order becomes invalid if the Constitutional Court does not sign it within a week.

Parliament, apart from passing laws and approving the budget, ratifies the President's decrees and international treaties, The *Milli Mejlis* also confirms the President's choice of prime minister, judges of the Constitutional and Supreme Courts, gives consent to a declaration of war and can call for a referendum. Parliament can override a presidential veto of "main" laws by a majority of 95 votes and current laws by a majority of 83 votes, after "repeated voting." Deputies are immune from prosecution, unless caught red-handed.

As for the judicial branch, Azerbaijan's constitution creates a Constitutional Court, which settles disputes between the executive and legislative branches, and determines the legality of Presidential decrees, parliamentary resolutions and other acts of government bodies, as well as the conformity with the constitution of political parties. The Supreme Court is the highest instance in civil, criminal and administrative cases. Article 71 enshrines the presumption of innocence.

Several provisions were controversial, such as Article 23 on the state language. After the Popular Front came to power in 1992, the state language was called "Turkish," reflecting the Popular Front's views on Azerbaijan's ethnic-linguistic kinship with Turkey. The country's state language now, however, is called "Azerbaijani." Another bone of contention was Article 163, which designates Nakhichevan, formerly an Autonomous Republic, as "an autonomous state forming a part of the Azerbaijani Republic." Critics warned that the change could undermine Azerbaijan's territorial integrity, paving the way for federalism and/or the loss of control over Nagorno-Karabakh.

Article 182 stipulates that changes in the Constitution can be adopted only through a referendum. Certain provisions, such as those relating to popular sovereignty, Azerbaijan's territorial integrity, or the state language, cannot be changed. Additions to the Constitution—Constitutional Laws—require a majority of 95 votes to pass.

The Constitutional Commission was supposed to publish the final version of the document 10 days before the referendum, i.e., November 2. In fact, the document was published only on November 8.

REGISTRATION

Parties: After the re-registration of parties that took place in summer 1995, 31 parties remained eligible to participate in the elections. Of them, 12 applied to the CEC for lists to collect the required 50,000 signatures: Yeni Azerbaijan [New Azerbaijan]; the Azerbaijan National Independence Party; the Azerbaijan Democratic Independence Party; the Party of the Popular Front of Azerbaijan; *Ana Vatan* [the Motherland Party]; the Azerbaijan Democratic Proprietors Party; Alliance in the Name of Azerbaijan: the Azerbaijan National Statehood Party; *Umid* [Hope]; the Party of People's Democracy; the Communist Party;[5] and *Musavat*.

On September 18, the CEC and District Election Commissions began distributing signature lists to parties and individual candidates. The distribution of signature lists evoked the first complaints by candidates, who protested that their opponents—whom they usually described as individuals favored by the local authorities—had received more lists than they. *Musavat*, a leading opposition party, charged that it had received only enough lists for 53,000 signatures, leaving little margin for error.[6] The CEC Chairman acknowledged that some candidates and parties had received more than others.

More frequently, candidates complained about the interference in the work of DECs by local executive authorities, especially in the countryside and regions, on behalf of reportedly favored candidates. The complaints ranged from intimidation, intended to discourage people from running, to alleged total control by local executive branch officials of the work of DECs, who reportedly could not, or did not want to, resist such pressure.

However, the most contentious aspect of the registration process was the inclusion or exclusion of parties and candidates. DECs and the CEC disqualified signatures on the basis of a visual examination of the lists, without an original of the signature for purposes of comparison, or without generally checking with

[6] However, New Azerbaijan, President Aliev's party, also asserted that it could have gathered far more signatures than it ultimately did, had it received more signature lists.

the signer whether he/she had actually signed the list. The CEC used six experts from the Ministry of Justice and at least two from the Ministry of Internal Affairs (Police) to examine the signatures and rule on their authenticity. There were no independent handwriting experts to check the work of these experts or to contest their findings that hundreds of individual candidates—ultimately, 63 percent of the 1,040 individuals who tried to enter the race—and four political parties failed to gather the necessary number of genuine signatures, and were therefore excluded.

Parties: The 4 disqualified parties were *Umid* (Hope), the Party of People's Democracy, the Communist Party, and *Musavat*. They all proclaimed their readiness to submit to any sort of objective verification, and appealed their exclusion to the Supreme Court.

On October 25, the Court examined the electoral fate of *Umid* and of the Party of People's Democracy. Under questioning, *Umid*'s chairman acknowledged the failure to collect 50,000 valid signatures. The chairman of the Party of People's Democracy also conceded some improper signatures, but claimed to have gathered the necessary 50,000. After hearing both party leaders, CEC members and handwriting experts, the Supreme Court confirmed the CEC's decision to exclude them. The same fate befell the Communist Party the next day.

On October 27, the Supreme Court began considering the appeal of *Musavat*, which—as a leading opposition party—was the most sensitive.[7] During the three-day hearings, *Musavat*'s representatives were able to argue their case. They got the CEC's representatives to acknowledge having—"by mistake"—listed 7000 instead of 6000, improper signatures for *Musavat*; not having counted all of *Musavat*'s signature lists, and having only examined them for 4 days. The CEC, in turn, claimed to have spot checked *Musavat*'s signatures in 8 or 9 regions over the last few days (without any *Musavat* participation or observation) and to have found numerous problems. In fact, they reported having received telegrams from people all over the country, denying that they had ever signed a signature list for *Musavat*. On October 30, the Supreme Court confirmed the CEC's exclusion of *Musavat*, after the judge read some of these telegrams before the TV cameras.

The Supreme Court's ruling against all four parties left eight parties in the race. Most were pro-government, or at least pro-Aliev. The Party of the Popular Front represented the opposition, the Party of National Independence the moderate opposition, and the position of the Party of National Statehood was unclear, as the leader of this previously pro-Aliev party went into open opposition to President Aliev shortly before the election.[8]

Individual Candidates: Of the 1,040 individuals who tried to run, the CEC initially registered 359 by October 23. The CEC, which considered candidates' complaints and appeals,[9] on October 31 re-

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[7] The OSCE/UN Joint Electoral Observation Mission spot checked signatures for all four excluded parties; the most controversial results concerned *Musavat*. Of 13 people whose signatures had been excluded, all confirmed having signed for *Musavat*. One elderly, illiterate woman explained that she had asked her daughter to sign for her.

[8] Since the election, a split has emerged between the party's leader, Neimat Panakhov, who continues to criticize the government, and those who want to replace him and merge the party with New Azerbaijan. According to Panakhov, the authorities have initiated criminal charges against him for beating a *Milli Mejlis* deputy in 1994.

[9] The CEC reported on November 7 that it had received 546 appeals and complaints.

leased a list of another 38 registered candidates. However, the CEC also excluded individuals already registered by DECs, including candidates who had received stamped protocols attesting to their having collected over 2000 valid signatures.

As of November 3, 127 of the hundreds of candidates excluded by the CEC had appealed to the Supreme Court, according to its chairman. He reported that in one of those cases, the Supreme Court overturned the decision of the CEC, and registered the candidate. Subsequently, the Supreme Court ruled in favor of one other candidate, for a total of two.[10]

Ultimately, of the party-affiliated candidates, many linked with the opposition were excluded. Thus, the Party of the Popular Front fielded 86 candidates, of whom only 23 were registered; of *Musavat's* 83 candidates, the election authorities registered 12. The figures for the less oppositionist Party of National Independence were 33 of 78, the Party of National Statehood saw 13 of its 53 candidates registered, and for the purportedly pro-Aliev Democratic Proprietors Party, 10 of 38. Among the pro-government parties, 3 *Ana Vatan* candidates of 17 were registered, 1 of 2 Alliance candidates, and 4 of 9 Azerbaijan Democratic Independence Party candidates. Efforts to ascertain the corresponding figures for President Aliev's party, New Azerbaijan, yielded various, and confusing, figures from party representatives, but it appears that 57 of 89 candidates were registered. Still, New Azerbaijan backed some independent candidates as well (see below).

About one-third of the candidates were nominally independents. Many of them, however, were close to the authorities, and some actually held government posts.

PARTY PLATFORMS

All the participating parties supported Azerbaijan's independence, sovereignty and territorial integrity, and claimed to support political and economic reforms that will make Azerbaijan a more democratic, pluralistic, and prosperous country. Below are brief descriptions of the three parties which ultimately passed the eight-percent threshold for parliamentary representation.

New Azerbaijan: Founded in 1992, this is the party of President Haidar Aliev, who is its Chairman. Ali Nagiev is Deputy Chairman. The party's program is to support the policies and initiatives of President Aliev. It claims to have 130,000 members. New Azerbaijan did not field candidates in every district, sometimes yielding instead to independent candidates it considered worthy or compatible. The party's weekly newspaper is *Yeni Azerbaycan*.

Azerbaijan National Independence Party: Led by Etibar Mamedov, ANIP favors democratic and market reforms and has ties to conservative parties in Western countries. The party stresses Azerbaijan's Turkic and Islamic identity, protested Azerbaijan's entry into the Commonwealth of Independent States (CIS), and opposes the return of Russian troops to Azerbaijan. *Millat* is the party's weekly newspaper.

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[10] In one enlightening case, the Court heard an appeal by a Popular Front-affiliated candidate, whose signature lists had been approved by handwriting experts from the Ministry of Justice. However, experts from the Ministry of Internal Affairs [Police] disagreed, arguing that the candidate had some 300 fewer proper signatures, invalidating his candidacy. The judge turned down the candidate's appeal.

Party of the Popular Front: Founded in 1989 as an umbrella movement, the Popular Front was registered in August 1995 as a party. Its chairman is ousted president Abulfaz Elchibey. The party is pro-Western, pro-Turkish and strongly critical of President Aliev's domestic policies. The PPFA supports what it claims is Aliev's return to Elchibey's foreign policy, i.e., resistance to Russian pressure. *Azadliq* is the PPFA's weekly newspaper.

CAMPAIGN

On October 20, the election campaign officially began. The election law originally gave candidates 5 minutes and parties 45 minutes of campaign time on national television. The CEC later increased these amounts to 7 minutes and 60 minutes, respectively.

Candidates could appeal to the voters in pre-taped TV spots. Several opposition candidates, such as Leyla Yunusova, leader of the Independent Democratic Party, and several Popular Front candidates, had their spots cut and censored.

Nevertheless, opposition parties—specifically, the Popular Front, the National Independence Party, and the Party of National Statehood (whose leader went into open opposition to President Aliev shortly before the election)—campaigned on television. They criticized the government and its policies, sometimes harshly, on the country's most important medium of mass communication, singling out official corruption, the cult of President Aliev, the absence of economic reform and the difficult living conditions for most of the population. Speaking for the Popular Front, former President Elchibey addressed the voters on television for the first time since 1993. Only his remarks about calling the state language of the country Turkish, as opposed to Azerbaijani, were censored. The leader of the Party of National Statehood even criticized President Aliev himself, and the participation of Aliev's in the election campaign as candidates.

Opposition parties also made their case to the voters through their newspapers, which, however, have small circulation and are difficult to find outside Baku. According to the European Institute for the Media, *Azerbaycan*, the one official daily newspaper, published the platforms of no political parties, including the pro-government parties. *Azerbaycan* did, however, print the platforms of pro-government candidates, but no opposition candidates.

Apart from campaigning in the media, candidates met with voters, though some complained that DECs and local executive authorities helped arrange meetings for favored candidates while hampering others. At rallies, candidates spoke of their achievements, speakers praised the candidate and children recited patriotic verses. There were generally no debates, no platforms were presented and only a few pre-arranged questions were asked.

There were relatively few posters to be seen in Baku. Apart from those of pro-government parties, the most frequently noticed posters were from the Democratic Proprietors Party, chaired by a wealthy businessman.

Perhaps the most sensational aspect of the campaign was the October 27 release of a list of candidates whose victory had allegedly been pre-determined by the authorities. The source of the information was Neimat Panakhov, leader of the Party of National Statehood, and a former state counselor to President Aliev. Opposition newspapers published the list, though most opposition parties tended to discount the information and its source.[11]

OBSERVERS

Apart from the OSCE/UN Joint Electoral Observation Mission, which ultimately deployed 122 international observers for the November 12 voting, other delegations included: the OSCE Parliamentary Assembly, the Council of Europe, the European Parliament, and the Parliamentary Assembly of the Commonwealth of Independent States. In addition, there were delegations of parliamentarians invited on a bilateral basis by Azerbaijan's *Milli Mejlis*.

VOTING

Voting took place on November 12 from 8 a.m. to 10 p.m. Azerbaijani citizens 18 years or older were eligible to vote. There were about 4,600 polling stations in 100 electoral districts.[12]

No voting took place in the eight electoral districts of Nagorno-Karabakh and surrounding regions currently occupied by Armenian forces. The parliamentary seat for the district of Khankendi,[13] the capital of Nagorno-Karabakh, will remain empty. Polling stations of seven of these eight districts were artificially relocated within other electoral districts of Azerbaijan, and people displaced from the occupied territories voted in these specially organized precincts for candidates from their home districts. By contrast, refugees from Armenia, who had arrived earlier (1988-1990) and had been resettled, voted for candidates of the districts where they resided.

Voters cast three ballots: 1) for individual candidates; 2) for slates of political parties; and 3) for or against the constitution. They had to cross-out the names of the candidates/parties they did not want and leave untouched the candidates/parties they preferred. In the Autonomous Republic of Nakhichevan, voters cast two additional ballots, one for candidates for Nakhichevan's parliament, and another approving or rejecting Nakhichevan's constitution.

According to international observers, there were districts where polling officials made a good-faith effort to conduct the voting according to the election law. But in many others, serious irregularities characterized the voting. For example, representatives of local executive authorities, and particularly the police, were present in many polling stations. Police at times intimidated voters, and in one instance in Baku, a team of international observers as well.

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[11] *Zerkalo*, November 4, 1995.

[12] It is unknown how many precincts there were on military bases, as the CEC refused, on grounds of national security, to reveal their number or the number of voters they served. These precincts were closed to observers, local and international, on election day. A lone international observer, nonetheless, managed to talk his way into one.

[13] The Armenian name of the city is Stepanakert.

Perhaps the most consequential irregularity, however, was multiple voting. This practice is traditional in Azerbaijan, where many heads of families consider it their prerogative to vote for their wives and children. On November 12, multiple voting was common all over Azerbaijan and tolerated by many election officials. One international observer saw a man present twenty passports and receive as many ballots. But family voting is not merely a cultural phenomenon; it also has important political implications. First, it violated the election law, which stipulated that people must vote only for themselves. Second, and even more important, the widespread official acceptance of multiple voting on election day starkly contrasted with the electoral authorities' strict adherence to the law during the registration process, when they rejected signatures on the grounds that one person had signed for family members. In short, inconsistent application of the law justified the CEC's exclusion of candidates and parties, yet expediently made it possible to meet the minimum turnout requirements for the election and referendum to be valid.

At times, electoral authorities prevented local poll-watchers and, in several cases, even international observers from monitoring the voting. Some other irregularities were more unusual: in the district where Foreign Minister Hassan Hassanov was running for re-election, armed men stole all the electoral material from the District Election Commission after the completion of voting and the preliminary counting.

Finally, there were killings directly related to voting. In Lachin district, a voter shot dead two representatives of a candidate and injured three other persons when confronted for having voted for another candidate. In another district, a man shot two people in a polling station, after being told that he could not vote for his wife.

VOTE COUNT

International observers reported that in some polling stations, especially in the countryside, officials conducted the count efficiently, and party observers and representatives of candidates were present. But in many other polling stations—and above all, in District Election Commissions, which compared and recounted (if necessary) tally sheets from the polling stations—the situation was often disorderly. Polling officials did not seem to understand the counting procedures, did not void unused ballots, and did not affix seals correctly. Furthermore, they artificially balanced out discrepancies between the number of ballots and the corresponding number of voters in the registration lists instead of recounting.

Worse than the disorder were the irregularities. Some observers reported lights being "accidentally" turned off when the vote count began. International observers witnessed attempts at stuffing ballot boxes, and in many instances, when ballot boxes were emptied, saw bunches of ballots folded together, clearly indicating ballot stuffing. Observers also noted in some polling stations in Baku that the voter turnout increased from 20 percent to 90 percent between 7 p.m. - 9 p.m., supplying good reason to suspect that polling station officials, seeking to meet the required 50 percent voter turnout, inflated the voter turnout by adding names and signatures to the voter rolls.

Another major problem on November 12 was the exclusion of political parties' observers from polling stations by election officials with the assistance of the police, especially at the district level. Most such expulsions took place in the evening, when it presumably seemed clear to election officials—some of whom told international observers they were under strict orders to ensure the election's validity—that turnout would not meet the 50 percent requirement. In at least three instances, international observers were also prevented from observing the vote count.

RESULTS

The Central Election Commission reported that 86 percent of the electorate took part in the referendum for the constitution, and 91.9 percent of voters voted in its favor. A 75 percent approval was needed to pass the referendum. The CEC also announced that 79.5 percent of the electorate had voted to elect 25 national representatives to the Parliament. Only three of the eight participating parties passed the 8 percent barrier for representation in parliament: New Azerbaijan (President Aliev's party) won 19 seats; two opposition parties—the Party of the Popular Front and the National Independence Party of Azerbaijan—won 3 seats each.

Of the individual candidates, 71 candidates were elected. Run-offs were necessary in 20 districts because none of the candidates had garnered 50-percent-plus-one of the vote. In eight districts, elections had to be canceled entirely. Four of the districts failed to meet the 50 percent minimum turnout requirement; in four others, the CEC annulled the voting due to violations of the electoral law. New elections in these eight districts will take place on 4 February 1996. The candidates who ran there cannot run again in the same district. However, they may run in one of the other districts in which the November 12 elections were canceled.

NOVEMBER 26 RUN-OFF ELECTION

On November 26, 1995, run-off elections took place in 20 of Azerbaijan's 100 electoral districts. International observers reported that polling station officials in certain districts made an effort to correct the problems noted on November 12, such as multiple voting. In most of the polling stations monitored, candidates' observers were present throughout the voting and vote count. Moreover, the vote count was generally more efficient than during the first round, in part because the choice between two candidates was the only issue of the voting on November 26.

However, in many other districts, problems observed during the first round persisted. Most international observers saw representatives of the local executive authorities in polling stations and District Election Commissions, and noted family voting throughout the country. Interestingly, opposition parties alleged that in some districts, the authorities did not tolerate multiple voting because, favoring neither candidate, they wanted a low turnout so that the elections would not be valid, and repeat elections, with new candidates, would be needed.

During the count, there were again cases where observers were kept outside during the vote count, or where only one candidate's representatives were permitted to monitor the count. International observers again had reason to suspect that the required minimum turnout led election officials in some instances to inflate the number of voters who participated, and even to engage in ballot stuffing.

According to the CEC, 61 percent of the electorate took part in the run-off election. In 13 districts, representatives were elected; five districts failed to meet turnout requirements, and in two others, various electoral law violations invalidated the voting. In these additional seven districts—apart from the eight districts where elections were annulled on November 12—repeat elections will take place on 4 February 1996.

CONCLUSIONS AND PROJECTIONS

Democratization: Azerbaijan's first post-independence parliamentary election was a multi-party, multi-candidate contest, in which opposition parties and candidates, as well as independents, were able to participate. State-run television gave them free air time, which the opposition parties exploited to criticize the government and its policies, while putting forward their own programs. Candidates and parties could appeal their exclusion to the Central Election Commission and the Supreme Court, which ruled on their cases before the November 12 voting.

Nevertheless, the election did not meet international standards for free and fair elections. While there were undoubtedly invalid signatures among those collected by candidates and parties, which also committed various improprieties, a questionable methodology resulted in the exclusion of 63 percent of candidates who tried to run and one-third of the participating parties, fostering suspicion of manipulation of the electoral process. Most controversial was *Musavat*'s exclusion, which representatives of the Central Election Commission defended unconvincingly in Supreme Court hearings. Election day itself was marred by official toleration of multiple voting, the expulsion of local observers from polling stations, and ballot stuffing, while the vote count was disorganized and electoral officials inflated voter turnout.

The OSCE Parliamentary Assembly described Azerbaijan's elections as "neither free nor fair." In the view of the Council of Europe, the election's problems "were of a nature to harm the[ir] democratic character," but the election "represented a first step towards a more democratic system." The Russian-led observer delegation from the CIS, as well as Turkish parliamentarians, noted problems, but characterized them as minor and largely gave the election good grades.

Addressing the first session of the new parliament on November 24, President Aliev conceded problems with the election, and acknowledged that observers' criticisms were justified. Nevertheless, he argued, the shortcomings did not affect the overall positive outcome of the election, which he described—apparently taking a lead from the Council of Europe—as "a step forward."

That depends on what happens now. The participation of 12 parties and over 1,000 candidates was encouraging, demonstrating the political involvement of Azerbaijani society. Consolidation of the gains made during the election campaign, such as the easing of censorship, the participation of independents and the opposition in the political process, and opposition access to the electronic media, would constitute genuine progress in democratization. If, on the other hand, the government uses its sweeping victory to clamp down further on the opposition, the election would have served to bolster centralized, repressive, executive authority. For the record, President Aliev has pledged to carry out the provisions of the newly adopted constitution, Article 13 of which reads: "The supreme aim of the state shall be to guarantee human and civil rights and freedoms." [14]

Throughout the electoral process, government officials and the CEC responded to suggestions and statements of concern by saying that Azerbaijan is just starting on its road to democracy. Moreover, they argued, the country had never before conducted elections using a mixed proportional/majoritarian system.

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[14] Nevertheless, while Article 39 of the Constitution forbids censorship, the editors of the opposition newspapers *Azadlyq*, *Chag*, and *Mukhalifet* reported in December that censors had cut critical articles in all three publications. *Foreign Broadcast Information Service (FBIS)*, December 27, 1995, p. 42.

True, Azerbaijan, like other former Soviet republics, is indeed in the first stages of democratization, and was implementing novel electoral procedures. But some of the problems in the election indicated not so much a lack of experience as perhaps too much experience of the wrong kind. Overcoming this legacy of the past will be an ongoing struggle in Azerbaijan's democratization and the development of stable, legitimate structures of government.

President Aliev: The new constitution and the election certified Haidar Aliev's preeminence in Azerbaijani politics, institutionalizing a strong presidency and giving him a virtually made-to-order parliament. He has established New Azerbaijan as the ruling party, and largely swept aside the opposition. On the other hand, Aliev now bears full responsibility for Azerbaijan's fate; he cannot blame any policy failures or unfulfilled expectations on an uncooperative legislature.

Aliev's successful entrenchment as the fulcrum and bulwark of the political system supplies an element of predictability long absent in Azerbaijan. His recognized centrality, and his reputation for self-defense and skillful bureaucratic maneuvering against opponents, have muted struggle among would-be rivals. Aliev has also installed his supporters throughout the country, creating a corps of loyal regional administrators, whose numbers will likely grow in upcoming local elections.

Nevertheless, individuals and groups tied to previous regimes, while acknowledging Aliev's primacy, deeply resent his return to power. And, the preeminence of Nakhichevanis has fueled among discontented natives of other regions a general sense of exclusion from the political process, in which they accordingly have a limited stake.[15]

Moreover, the entire political system is built around Aliev. Institutionalized structures—as opposed to personalized politics—ensuring the consistent functioning of government are barely developed. The creation of such structures, which operate according to known guidelines and treat all citizens equally, will be a key benchmark of Azerbaijan's transition to democratic statehood. It remains to be seen, however, whether Haidar Aliev will consistently pursue this task.

While Aliev, at 72, appears to be in good shape and his mental acuity impresses all who deal with him, he has had at least one heart attack and reportedly works a punishing schedule. The Constitution has no provisions for a vice-president. If Aliev were unable to continue in office, Articles 117-118 specify that the Constitutional Court must approve his request for resignation. New presidential elections must take place within three months, while the Speaker of Parliament serves as acting president. Given Azerbaijan's history of instability, even politicians strongly opposed to Aliev worry that without him, there might well be a power struggle, with a real possibility of outside meddling.

Milli Mejlis: Even though run-off elections had not yet taken place, parliament was convened for its first session on November 24. The new legislators represent eight parties, including the three that passed the eight-percent threshold. Among the deputies are five poets and five writers, as well as academics, and several relatives of President Aliev, including his son, son-in-law and brother.

[15] For instance, former President Mutalibov and his backers are tied to Baku.

[16] *Zerkalo*, November 25, 1995.

At the session, the former Speaker, Rasul Guliev, won reelection unopposed, though the few representatives of opposition parties abstained. His victory—amid rumors that he either would not run, would not accept the post, or that President Aliev had designated someone else as Speaker—also reaffirmed his status as the second most powerful man in the country. His position provides an institutional power base, as well as international exposure.

In the short and near term, Parliament can improve its problematic reputation by passing legislation institutionalizing political and economic reform. Guliev told Helsinki Commission staff in early December that he had worked out an ambitious docket of draft laws, including reform of the court system and law enforcement. Eventually, the *Milli Mejlis* could, under strong leadership, also become a genuine counterweight to the executive branch, consolidating a division of powers that is little developed in Azerbaijan. In a country that has experienced so much instability since 1989, that would be a contribution outweighing the parliament's controversial origins.

Government-Opposition Relations: In deciding to participate in the election, leaders of the PPFA and *Musavat* had to overcome strong sentiment among their membership to boycott. *Musavat*'s exclusion and the paltry number of seats won by the PPFA did little to convince skeptics of the government's good faith or to improve government-opposition relations. The opposition's presence in parliament now differs little from its representation after the 1990 elections. If the government hoped the November election would create a parliamentary forum for political activity and competition, with clear rules of the game, that would enjoy respect and legitimacy among all of Azerbaijan's political actors, that did not materialize. *Musavat* and the PPFA reject the legitimacy of the *Milli Mejlis*, and have called for pre-term elections. The more moderate National Independence Party has also characterized the election as undemocratic and unfair.

On the other hand, the intention may have been to remove the PPFA and *Musavat* from the political process, save for nominal representation. In particular, *Musavat*'s failure to gain registration or to win even one seat in an election so heavily influenced by the authorities indicates a high-level determination to weaken the party. *Musavat* leader Isa Gambar contended that being singled out for such special attention by authorities he called unpopular actually improves the party's standing and validates its claims to be the leading opposition threat and alternative.[16] Nevertheless, a political party not represented in a parliament serving a five-year term will have to find ways of retaining members who must watch others make key decisions on Azerbaijan's future.

Indeed, the exclusion of *Musavat* also signals a political failure of the PPFA and *Musavat* to unite, if only for electoral expediency. Though the two parties claim to have no programmatic differences, they entered the lists separately. After the registration of the reputedly more radical PPFA, which ensured formal opposition participation and international observation, the exclusion of *Musavat* split the opposition and left the international community in a quandary. It would have been harder and much more awkward for the government to exclude a PPFA-*Musavat* bloc, given the international uproar in summer 1995, when the Ministry of Justice refused to register the Popular Front as a party.[17] With the PPFA now

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[17] The U.S. Embassy in Baku, among others, made public statements of protest, and the Popular Front credits its ultimate registration to the intercession of foreign governments.

represented in parliament, its ongoing competition with *Musavat* takes on a new dimension, as small opposition parties—which are mostly centered around personalities and frequently split into even smaller factions—contemplate possible alliances and mergers with larger, like-minded parties.

Plans by *Musavat* and the PPFA, along with the National Independence Party, to field candidates in the February 4 repeat elections in 15 districts indicate their willingness, for now, to continue playing a political game they consider stacked against them. This allows the government to point simultaneously to their *de facto* validation of the process, and to their weakness. But if government intimidation of the PPFA and *Musavat* intensifies, they could move to the sidelines until a more opportune moment, or conclude they have no alternative to other means of struggle.

The election results also place the pro-government parties in a difficult position, as only New Azerbaijan won parliamentary representation in the proportional voting. Their electoral failure highlights the dubious sense of having pro-Aliev parties when the President is already associated with another, more favored party.[18] If their loyalty brings them no gains during the February 4 repeat elections, they will have to consider merging with New Azerbaijan, or adopting a less pro-government, more centrist stance. In any case, only three of eight participating parties passed the eight-percent threshold, while individual candidates affiliated with Azerbaijan's numerous small parties fared poorly. The likely consequence is a series of mergers among them, or with the larger, more successful parties. Their consolidation would winnow the political field, leaving a more manageable and reasonable number of parties to represent a population of 7.5 million.

Nagorno-Karabakh: Any non-military resolution of the conflict involves compromise, which is problematic for all the disputants, given the high emotions after years of hostilities and so many casualties. With President Aliev now having been strengthened politically and sure of parliamentary backing, the prospects for a deal would appear to have improved: Armenian President Ter-Petrossyan also has a legislature whose support is virtually assured, and both presidents want to put the conflict and its consequences behind them. Aliev, in his New Year's Address, said the cease-fire in place since May 1994 offers grounds to resolve the dispute. Ter-Petrossyan, for his part, said in December 1995 that Armenia and Nagorno-Karabakh should display "a more flexible, more constructive approach" in the negotiations. Azerbaijan and Armenia have also been engaging in direct, bilateral negotiations.

However, a deal will require courage and imagination, as the OSCE's Minsk Group talks over the past year have made little progress in resolving key points. Baku still insists on regaining the occupied territories, the cities of Shusha and Lachin, and the return of refugees, while Yerevan and Stepanakert focus on security guarantees for Nagorno-Karabakh. But Armenia and Nagorno-Karabakh differ about strategy and tactics: Armenia favors addressing the thorny question of Nagorno-Karabakh's status at the end of the negotiating process, whereas Nagorno-Karabakh seeks a package deal that would settle its status along with the other issues. Nagorno-Karabakh's spokesmen have thus far rejected anything less than full independence, which they say they have won on the battlefield.[19] Baku has consistently rejected

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[18] A commentary in *Zerkalo* (November 25, 1995) pointed out that the participation of so many pro-Aliev parties nevertheless bolstered the impression of a multi-party election.

[19] Robert Kocharian, the leader of Nagorno-Karabakh, made these points in a public address in Washington during his January 1996 visit to the United States.

de jure independence for Nagorno-Karabakh, but the "autonomous state" status give to Nakhichevan in the new constitution might constitute a precedent for Nagorno-Karabakh that allows Azerbaijan to maintain its nominal territorial integrity.

Another major question mark is Russia's role in the negotiations. At the CIS Summit in Moscow in January 1996, President Yeltsin said Nagorno-Karabakh could hope for "autonomy at best." The Summit participants also agreed to economic and political sanctions on Abkhazia, an indication that the disastrous war in Chechnya has finally moved Russia to take more seriously the territorial integrity of its neighbors, and to back away from separatist movements. On the other hand, the Russian government—as opposed to the Russian Duma, or individual legislators—has always publicly supported the territorial integrity of the former Soviet republics. What was new in Moscow was, first, Yeltsin's pronouncement about the limits of Nagorno-Karabakh's possible future status, a matter for the Minsk Group, not any of its member states, to decide. Second, Yeltsin ordered newly appointed Foreign Minister Primakov to "step up" Russian diplomacy in Nagorno-Karabakh. Even before, Vladimir Kazimirov, Moscow's negotiator on Nagorno-Karabakh, had announced new Russian proposals, which, he claimed, in no way aimed at undercutting the Minsk Group. Yet before the December 1994 OSCE Summit in Budapest, when Russia became one of the Minsk Group's co-chairs, Moscow consistently pushed a parallel negotiating track. Considering Primakov's stated goals of focusing on Russia's relations with its neighbors, and "restoring Russia's great power status," any "stepped up" Russian diplomacy in Nagorno-Karabakh might again undermine the OSCE talks.

With some 20 percent of its territory under occupation and so many refugees, Azerbaijan needs to alter the status quo more than do Armenia and Nagorno-Karabakh. Though the cease-fire has largely held since May 1994, there are frequent small-scale violations, and if Azerbaijan decides the diplomatic process offers no hope of regaining the land, a military option may become more attractive. The example of Croatia's reconquest of the Kraina in summer 1995 has not been lost on Baku. However, both government and opposition representatives largely discounted this option, given Azerbaijan's military capabilities. Moreover, a failed offensive would be very damaging to President Aliev, who has hitherto blamed the loss of territory on his predecessors in office.

Having erupted in 1988, Nagorno-Karabakh is the longest-running ethnic-territorial conflict in the former USSR. If no agreement is reached, the status quo could remain frozen for some time to come.

Relations with Russia: Russian policy towards Azerbaijan is difficult to characterize, considering that various bureaucracies seem to have divergent goals. Security agencies pursue military bases, joint border controls, and Azerbaijani membership in a common air defense system for Transcaucasia. The Foreign Ministry, seeking to maintain Russia's influence in Azerbaijan, contests Azerbaijan's right to sell its oil, arguing that the Caspian is a lake, not a sea, and all littoral states must jointly make decisions on its resources. At the same time, energy and financial circles want to do business with Baku. Thus, the Foreign Ministry's position has not kept Russia's Ministry of Fuel and Energy from avidly participating in the international consortium. Russia's LUKoil has 10 percent of the September 1994 deal, has an even larger share (32.5 percent) of the November 1995 deal for another oil field, and gives every indication that it expects to be part of future deals as well. In January 1996, Prime Minister Chernomyrdin signed an understanding with President Aliev in Moscow for the northern route for Azerbaijan's early oil, which would seem to put Russia's government squarely at odds with itself.

Strengthened by the election's outcome, President Aliev can continue turning aside Moscow's security-related demands, while he does business in the apparent hope of placating Moscow and encouraging forces representing economics-based policy making, as opposed to imperial tendencies. For now, the cooperation and involvement of Russia's energy sector helps Azerbaijan develop its resources with greater confidence. A decision on the route[s] of the pipeline[s] for the larger deal for "later oil" is slated for 1997. Moscow will likely take a unified approach in pushing the northern (Russian) route for both early and later oil. But unless the conflict in Chechnya is resolved, it is unclear how Russia can guarantee the security of the pipeline—which goes through Grozny to Novorossiisk—from possible terrorist attacks, considering the incidents in Budyonnovsk, Kizlyar/ Pervomaiskoe and the hijacking of a Turkish ferry. Continued instability in Russia would enhance the attractiveness of the western route through Georgia for Azerbaijani oil.

Meanwhile, the Caspian Sea controversy can be used, if need be, to pressure Azerbaijan. In that connection, Russia's Foreign Ministry has sent a formal note to Baku, protesting Article 12 of the new constitution, which specifies that Azerbaijan's territory includes its coastal sector of the Caspian Sea.

Another Russian lever against Azerbaijan is economic pressure. Moscow closed the border between the two countries in December 1994, claiming that Azerbaijan's border security was inadequate.[20] Since then, Azerbaijan has also been accused of providing easy transit to Chechens from Turkey into Russia.[21] President Aliev has heatedly denied these allegations, but the issue is unlikely to disappear while the Chechen conflict continues, and, even more important, as long as Azerbaijan resists Russian demands for joint border controls.

Moscow has often used the status and rights of Russians and Russian speakers as leverage against its neighbors, but this has not been a prominent issue in Azerbaijan, where some 180,000 Russians remain.[22] Last summer, while drafting the election law, Azerbaijan's legislature rejected the proposal of *Russkaya Obshchina* [Russian Community], the leading organization of Russians in Azerbaijan, for a quota representation in parliament for Russians. Nevertheless, *Russkaya Obshchina*'s chairman Mikhail Zabelin is now a member of parliament, having been elected (number 5) on New Azerbaijan's party list. Zabelin's inclusion indicates President Aliev's determination to remove or minimize concerns of Azerbaijan's Russian community as an issue in dealings with Moscow.

All the above assumes no sharp, hardline turn in policy towards what Russia calls "the Near Abroad." Given the success in Russia's December 1995 parliamentary election of communist-nationalist forces, and President Yeltsin's moves to accommodate them since then, predictions before Russia's June 1996 presidential election about Moscow's relations with Baku are dangerous. On the other hand, Foreign Minister Primakov appears more determined than his predecessor to limit Western influence and presence in the former USSR, he is a specialist on Russia's neighbors to the south, and has had a long professional and

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[20] According to Moscow's ambassador in Baku, food can be shipped to Azerbaijan from Russia, and people who live in the border region may travel across the border in passenger cars, but there is no train traffic between the two countries. He argued it was "nonsense" to call this arrangement a blockade.

[21] FBIS, January 25, 1996, p. 4. Mikhail Barsukov, the head of Russia's Federal Security Service, is the latest high-ranking official to accuse Azerbaijan of aiding and abetting the Chechens.

[22] The figure comes from Russia's ambassador in Baku during an interview, November 30, 1995.

personal acquaintance with Haidar Aliev.[23] Despite patterns of troubled bilateral relations to date, Russia and Azerbaijan could yet come to terms. In this connection, it is worth noting that Azerbaijan's new constitution does not explicitly bar foreign military bases.

Economic Reform: Azerbaijan's Gross Domestic Product fell 17.4 percent between January and November, according to CIS statistics, as opposed to 20-25 percent in 1994. Metallurgy, machine building and light industry were hard hit, but the situation was worst in agriculture, which is still dominated by large state and collective farms.[24] About 46 percent of the population remains rural, and privatization of land has made little headway.

On the other hand, inflation has fallen dramatically, with the aid of an IMF program, to only 2.5 percent. The government has also worked out an industrial privatization program, with World Bank assistance. Distribution of vouchers is supposed to begin in March 1996, and 8,000 enterprises are supposed to be sold off by the end of 1996, although the program is already behind schedule.

In the longer term, Azerbaijan's hopes rest on the sale of its vast energy resources. The 30-year oil deal signed with the international consortium in September 1994 is supposed to bring about $60 billion to Azerbaijan's government (which reportedly received some $200 million in bonuses for signing). In October-November 1996, the pumping of 450,000 tons of "early oil" is expected to bring in new revenues, and contracts signed for other fields in November 1995 and future deals promise to supply still more. If stability continues—and the government pursues market reforms and uses the oil income to develop the country's infrastructure—Azerbaijan could become prosperous over the next few decades.

U.S.-Azerbaijan Relations: The signing of the 1994 "contract of the century" and the involvement of U.S. oil companies in AIOC[25] have apparently stimulated thinking in Washington about the economic and geo-strategic importance of relations with Baku. Washington has backed Azerbaijan against Russia on the Caspian Sea controversy, arguing that littoral states have the legal right to exploit the resources in their offshore waters. In May 1995, President Clinton openly championed Azerbaijan's position on the sectoral division of the Caspian, and in October, expressed support for the two-pipeline decision announced a few days later.

More recently, Washington proposed an international conference on the Caspian Sea. Moscow rebuffed the idea, arguing that the littoral states can resolve the dispute by themselves, and Russia, in general, cannot be pleased by Washington's support of Baku. Unless economic considerations take precedence over imperial tendencies in Russian policy making, 1996 could witness increased tension between the United States and a newly assertive Moscow over Azerbaijan.

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[23] On the other hand, Azerbaijanis remember Yevgenyi Primakov for his appearance in Baku in January 1990, in his capacity as Chairman of the USSR's Supreme Soviet's Council of the Union. He arrived in Baku just before Soviet troops invaded the city to keep the Popular Front from overthrowing the Communist Party, killing over 130 people during the military action. See Audrey Altstadt, *The Azerbaijani Turks: Power and Identity under Russian Rule* (Stanford: Hoover Institution Press, 1992), p. 214.

[24] Interfax, December 29, 1995.

[25] Five U.S. oil companies—Amoco, Exxon, Pennzoil, McDermott and Unocal—have almost 44 percent of the Consortium's shares.

As for U.S. aid, the Clinton Administration has consistenly opposed Section 907 of the 1992 Freedom Support Act, which bans direct U.S. government-to-government aid to Baku. During 1995, there were attempts in Congress to weaken the application of these sanctions, by permitting government-to-government humanitarian assistance. Those efforts failed in a floor vote in the House in June, but the October House-Senate conference language on the Foreign Aid Bill mandated an exception to implementation of Section 907, if the President certifies that the delivery of U.S. humanitarian aid to refugees in Azerbaijan through NGOs (which 907 permits) is inadequate. President Clinton signed the Foreign Aid bill in late January 1996, but it is unclear whether he will move to exercise the waiver, given the objections of influential members of Congress who favor retaining 907's restrictions in full force. Whatever happens, the trend in Congress to rethink the breadth of the sanctions is clear.

In that connection, the State Department's November 18, 1995 statement about Azerbaijan's elections reads remarkably like the statement issued after Armenia's July 1995 election. The Clinton Administration seems to be walking a careful line to treat Azerbaijan and Armenia as equally as possible, given domestic political considerations—especially in a presidential election year.